- Case 3:08-cy-00869-IEG-WMC D	ocument 1 File 05/14/2008 Page 1 of 12	· .
* Alfredo Purata	FILING FEE PARD	
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SOUTHERN DIST	TRICT OF CALIFORNIA	
17/fredo/urafa	Civil No. 208 CV 0.869 IEG WMC	
(FULL NAME OF PETITIONER) PETITIONER	GIVIL NO. (TO BE FILLED IN BY CLERK OF U.S. DISTRICT COURT)	
v.		
(NAME OF WARDEN SUPERINTENDENT TAIL OF OR AUTHORIZED	PETITION FOR WRIT OF HABEAS CORPUS	
(NAME OF WARDEN, SUPERINTENDENT, JAILOR, OR AUTHORIZED PERSON HAVING CUSTODY OF PETITIONER [E.G., DIRECTOR OF THE CALIFORNIA DEPARTMENT OF CORRECTIONS])		
	UNDER 28 U.S.C. § 2254	
RESPONDENT and	BY A PERSON IN STATE CUSTODY	
The Attorney General of the State of		
California, Additional Respondent.		
1. Name and location of the court that entered	d the judgment of conviction under attack:	
	, Superior Court of California	
2. Date of judgment of conviction: Hug		
3. Trial court case number of the judgment of	f conviction being challenged:	
S.C.D 1032	그들은 사회들이 바로 관계되었다. 그는 이렇게 사람들이 나는 동생님, 나는 점점 하는 것으로 다른다.	
4. Length of sentence: 112 year	rs y month	
CIV ₁ 68 (Rev. 11/98)	K:\COMMON\FORMS\CIV-68.	

6. Offense(s) for which you were convicted or pleaded guilty (all counts): (1) PC forcide Lape for the orge (2) for the style (2) for the style (3) for the style (3) for the style (3) for the style (4) for the	E 3	Case 3:08-cv-00869-IEG-WMC
Pape	5.	• Sentence start date and projected release date: 09/21/04
7. What was your plea? (CHECK ONE) (a) Not guilty	6.	Offense(s) for which you were convicted or pleaded guilty (all counts): (1) P.C. forcible sape, (3) forcible sape, (4) forcible sape, (5) forcible or copylation, (4)
(a) Not guilty (b) Guilty (c) Nole contendere 8. If you pleaded not guilty, what kind of trial did you have? (CHECK ONE) (a) Jury (b) Judge only. 9. Did you testify at the trial? Yes: No No DIRECT APPEAL	7.	Sexual penet stou with a toreing object (7) Sexual battery (8) False imprisonment, Dre d'unes, with enhancement prior. What was your plea? (CHECK ONE)
(c) Nolo contendere 8. If you pleaded not guilty, what kind of trial did you have? (CHECK ONE) (a) Jury (b) Judge only 9. Did you testify at the trial? Ves No DIRECT APPEAL 10. Did you appeal from the judgment of conviction in the California Court of Appeal? XYes No 11. If you appealed in the California Court of Appeal, answer the following: (a) Result: Defined (b) Date of result, case number and citation, if known: (c) Grounds raised on direct appeal: 2. If you sought further direct review of the decision on appeal by the California Supreme Court (e.g., a Petition for Review), please answer the following: (a) Result: Deficed (b) Date of result, case number and citation, if known: [INFRED OF TEXAS February P.S. & 6.676) (e) Valides ceptishing poores, servence was		(a) Not guilty
(a) Jury (b) Judge only 9. Did you testify at the trial? Yes \(\subseteq \text{No} \) DIRECT APPEAL 10. Did you appeal from the judgment of conviction in the California Court of Appeal? Yes \(\subseteq \text{No} \) 11. If you appealed in the California Court of Appeal, answer the following: (a) Result: \(\subseteq \subseteq \text{None} \) (b) Date of result, case number and citation, if known: \(\subseteq \subseteq \subseteq \text{None} \) (c) Grounds raised on direct appeal: \(\subseteq \subseteq \text{None} \) 2. If you sought further direct review of the decision on appeal by the California Supreme Court (e.g., a Petition for Review), please answer the following: (a) Result: \(\subseteq \text{None} \) (b) Date of result, case number and citation, if known: \(\subseteq \subseteq \text{None} \) (c) Grounds raised: \(\subseteq \subset		가 보면 통상 열차 가장 있는 것은 경험을 통해 되었다. 그런 경험을 보고 보고 있는 것이 있는 것이 되었다. 그는 그는 그를 보고 있는 것은 그는 그를 모든 것은 것은 것은 것은 것은 것은 것은
DIRECT APPEAL 10. Did you appeal from the judgment of conviction in the California Court of Appeal? Yes: □No 11. If you appealed in the California Court of Appeal, answer the following: (a) Result: □CINEC (b) Date of result, case number and citation, if known: □4 = 25 = 96 (c) Grounds raised on direct appeal: □ARPEAL 2. If you sought further direct review of the decision on appeal by the California Supreme Court (e.g., a Petition for Review), please answer the following: (a) Result: □PENICO (b) Date of result, case number and citation, if known: □INFINIA (c) Grounds raised: □LINIACE of Evidence, Ellegal Use of Texas February P.C. & 6.676() (e) Violates capasation of poores, sentence □ 23	8.	(a) Jüry
10. Did you appeal from the judgment of conviction in the California Court of Appeal? Yes \(\text{No} \) 11. If you appealed in the California Court of Appeal, answer the following: (a) Result: \(\text{Period} \) (b) Date of result, case number and citation, if known: \(\text{V} - 25 - 96 \) (c) Grounds raised on direct appeal: \(\text{Succession} \) 25 25000 (\$\frac{1}{2}\$\$) 2. If you sought further direct review of the decision on appeal by the California Supreme Court (e.g., a Petition for Review), please answer the following: (a) Result: \(\text{Period} \) (b) Date of result, case number and citation, if known: \(\text{Jurious In} \) (c) Grounds raised: \(Legal use of Texas Februs, P.C. & 6676l (e) Violetes caparation of powers, servence, was	9. _\	これが 屋が行うないがは、大変性があります。 ちゅうしゅう はんしゅう いっぱん はんしゅう はんしゅう はんしょう はんしゅう アンドラ はんしょう スピー・スピー・スピー・スピー・スピー・スピー・スピー・スピー・スピー・スピー・
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PC. S. 6676) (e) Violates ceparation of powers sentence was		(b) Date of result, case number and citation, if known:

— Cas	se 3:08-cv-00869-IEG-WMC
13. If y foll	you filed a petition for certiorari in the United States Supreme Court , please answer the lowing with respect to that petition:
(a	Result:
(b	Date of result, case number and citation, if known:
(c)) Grounds raised:
	COLLATERAL REVIEW IN STATE COURT
4. Othe	er than a direct appeal from the judgment of conviction and sentence, have you
prev Corp	iously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas bus) with respect to this judgment in the California Superior Court? es No.
5. If yo	ur answer to #15 was "Yes," give the following information:
(a)	California Superior Court Case Number: SCP 103277
(b)	Nature of proceeding: Petition for work of Habias Cospus
(c)	Grounds raised: (2 Court illegally enhanced patitioners senten using out of state felony.
	(a) The imposition of onsecutive sentences was in error and in violation of the 8th and 14th Ameriment of the V.S.
	Did you receive an evidentiary hearing on your petition, application or motion? Pensed Result:
Other previous Corpu	Date of result: than a direct appeal from the judgment of conviction and sentence, have you could be used to the properties of the proper
If your	answer to #17 was "Yes," give the following information:
(a) (California Court of Appeal Case Number: D 050366
	Nature of proceeding: Mabeas Corpus.
(c) C	Grounds raised: Court Illegally Enhanced Petitioner's sentence

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(d). Did		Murder			•	
	you receive an e es 🔀 No	evidentiary	nearing on you	ar petition, app	lication of	r motion?
	ult:	Pe.	nied			
(f) Date	e of result:			Jun 14,	2007	The second se
previously	a direct appeal filed any petition ith respect to this No.	ons, applicat	tions, or motic	ns (e.g., a Peti	tion for W	
If your ans	wer to #19 was	"Yes," give	the following	information:		
(a) Calif	fornia Supreme	Court Cas	e Number:	<u> </u>	5546	Z
(b) Natu	re of proceeding		7Vá	beas Co	SPUS	
	nds raised: 🕡	LOVII	illegally	enhancec	Jenn	OFICE & SEFF
(d) Did y	ou receive an ev	tste fel iss i'n ei wendm	ony. (a) ccor and ent of th	The impo in violati ve Vs (c	osition on of oustill	of consecutive 8th
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Document 1 COLLATERAL REVIEW IN FEDERAL COURT 21. Is this your first federal petition for writ of habeas corpus challenging this conviction? ☐ Yes ☑ No (IF "YES" SKIP TO #11) (a) If no, in what federal court was the prior action filed? ? District Court - Southern NO MEMORY OF THIS (i) What was the prior case number? (ii) Was the prior action (CHECK ONE): Denied on the merits? ☐ Dismissed for procedural reasons? (iii) Date of decision: (b) Were any of the issues in this current petition also raised in the prior federal petition? X Yes □ No - However, not is same scope presented here (c) If the prior case was denied on the merits, has the Ninth Circuit Court of Appeals given you permission to file this second or successive petition? ☐ Yes X No Single I stuepreviously raised is currently different in scope **CAUTION:** Exhaustion of State Court Remedies: In order to proceed in federal court you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. This means that even if you have exhausted some grounds by raising them before the California Supreme Court, you must first present all other grounds to the California Supreme Court before raising them in your federal Petition. • Single Petition: If you fail to set forth all grounds in this Petition challenging a specific judgment, you may be barred from presenting additional grounds challenging the same judgment at a later date. • Factual Specificity: You must state facts, not conclusions, in support of your grounds. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do. A rule of thumb to follow is - state who did exactly what to violate your federal constitutional rights at what time or place.

GROUNDS FOR RELIEF

- 22. State concisely every ground on which you claim that you are being held in violation of the constitution, law or treaties of the United States. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and/or facts supporting each ground.
 - (a) GROUND ONE: Isial court in violation of the 14th Amend (Due Process), illegally enhanced sentance by using an out the maximum term in ony to double Supporting FACTS (state briefly without citing cases or law) 1994 reciving t three ctri

Did you raise GROUND ONE in the California Supreme Court? Yes \(\square\) No.

(b) GROUND Two: In Violation of the 8th and 14th Amendment
(b) GROUND I'WO: In VIOLATION of the 12 and 1914 Immendment
of US Court; trial judg abused her discretion in applying
Consecutive sather than Concurrent sentences.
Supporting FACTS (state briefly without citing cases or law): Upon Senfencing
in 1994, frial judge applied multiple consecutive sentences
based solely on recommendations of the District
Altorney and probation officer. Pethones notes while
mitigation arguments were used at sentencing hearing,
judge gave consecutive sentences in violation of Californial
rule 4 425 (Previous rule 425). As per Rule 4425(1)
Petitioner notes his coust were all in the same location, on
same day, in same 7-8 hr. time frame, all in same room, all
against came person, with the same over all objective as per
change \$ 244 is one over all assault Thus this factor was not
met to allow consecutive sentencing. Thus petitionerargues
consecutive sentencing was abuse of discretion, violation of
due process and cive & unusual punishment Petitioner
request evidentiary hearing to resolve this illegal sentencing.
Based on secent case law court failed to instruct jury
on multiple vs. single acts (or conspiracies) thus sentencing
violated petitioners due process rights.
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Did you raise GROUND Two in the California Supreme Court?
▼ Yes □ No.

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	(c) GROUND	THREE:					·		
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	our answer to #23 is "Yes," give the following information:
(a)	Name of Court:
` '	Date action filed:
(u)	Nature of proceeding:
(a)	Grounds raised:
(e) (e)	Grounds raised:
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	Did you receive an evidentiary hearing on your petition, application or motion? ☐ Yes ☐ No
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. Give	the name and address, if known, of each attorney who represented you in the following
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stages	s of the judgment attacked herein:
stages	s of the judgment attacked herein: At preliminary hearing:
stages (a)	s of the judgment attacked herein: At preliminary hearing:
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stages (a)	s of the judgment attacked herein: At preliminary hearing: At arraignment and plea:
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stages (a) (b) (c)	s of the judgment attacked herein: At preliminary hearing: At arraignment and plea: At trial:
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stages (a) (b) (c)	s of the judgment attacked herein: At preliminary hearing: At arraignment and plea: At trial: At sentencing:
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(a) (b) (c) (d)	s of the judgment attacked herein: At preliminary hearing: At arraignment and plea: At trial: At sentencing:
(a) (b) (c) (d)	s of the judgment attacked herein: At preliminary hearing: At arraignment and plea: At trial: On appeal:
(a) (b) (c) (d) (e) ((f) I	Sof the judgment attacked herein: At preliminary hearing: At arraignment and plea: At trial: On appeal: In any post-conviction proceeding:
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ته. ا	,			Page 11 of 12 nposed by the
	(a) If so, gi	ive name and location of court th		ved in the future:
	(c) Have you imposed □ Yes	ou filed, or do you contemplate f I the sentence to be served in the □ No	iling, any petition attacking the future?	e judgment which
	28. Date you are n	nailing (or handing to a correction)	onal officer) this Petition to thi	s court:
機力がよう	Wherefore, Petition this proceeding.	ner prays that the Court grant Pe	titioner relief to which he may	be entitled in
上 一直の間でいる。			SIGNATURE OF ATTORNEY (IF AN	
	I declare under pena	alty of perjury that the foregoing	is true and correct. Executed	on.
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JS44

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and rules of court. This form, appropriate. (SEE INSTRUCTIONS	ved by the Judicial Conference o	of the United States in S	eptember I								
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(b) COUNTY OF RESIDENCE PLAINTIFF		no Yes	СТИМАТ	OF RI SIDEN	CE OF FI			SOUT BY	PRK, U.8	DISTRICT TRICT OF C	COURT ALIFORN DEPU
(EXCEPT IN U.S.	PLAINTIFF CASES)	COPIES Court		LAND CONDE	EMNATIO	N CAS	SES, USE TH	E LOCATI	ION OF THE	TRACT OF LA	AND
(c) ATTORNEYS (FIRM NAM	1E, ADDRESS, AND TELEPH	IONE NUMBER)	ATRORN	NEYS (IF KNOV	WN)		y reaching soft			9	
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Coalinga, CA 93210 J-34602			,	80°	CV	0	869	IEG	WMC		
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□ IU.S. Government Plaintiff	■3Federal Question (U.S. Government Note)	a Party)		This State		PT [DEF	rated or Pri	incipal Place	P P	T DEF
☐ 2U.S. Government Defendan	• •	tizenship of Parties in	Citizen of	Another State		□ ₂	□2 Incorpo in Anoti	rated and F her State	Principal Plac	e of Business	□5 □5
	ltem III		Citizen or Country	Subject of a For	eign	□ ₃ (□ ₃ Foreign	Nation		C	□6 □6
IV. CAUSE OF ACTION (CIT JURISDICTIONAL STATUT		UNDER WHICH YO	U ARE FI	LING AND WR	ITE A BR	RIEF S	TATEMEN	r of cau	SE. DO NO	T CITE	
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V. NATURE OF SUIT (PLAC) DRTS	1	FORFEITURE	/PENALTY		BANKI	RUPTCY	1	OTHER STATU	res
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	L			620 Other Food &	Seizure		423 Withdraws		7 410		t
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□ Marine □ Miller Act □ Negotiable Instrument □ I.50 Recovery of Overpayment	310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers'	☐ 362 Personal Injury- Medical Malpractice ☐ 365 Personal Injury - Product Liability		620 Other Food &	Seizure		PROPERT 820 Copyrights 830 Patent	N RIGHTS	7 410 430 450 460	Antitrust Banks and Banking Commerce/ICC Rat Deportation	es/etc.
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